

MICHAEL DONAHOE
Deputy Federal Defender
Federal Defenders of Montana
Helena Branch Office
50 West 14th Street, Suite 1
Helena, MT 59601
Phone: (406) 449-8381
Fax: (406) 449-5651
Email: michael_donahoe@fd.org
Attorneys for Defendant

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
HELENA DIVISION**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

SHAWN MATTHEW RUSSELL,

Defendant.

CR 10-13-H-BMM

**DEFENDANT RUSSELL'S
BRIEF IN SUPPORT OF
UNOPPOSED MOTION FOR
EARLY TERMINATION OF
SUPERVISED RELEASE**

INTRODUCTION

Defendant Shawn Matthew Russell (Mr. Russell), pursuant to 18 USC §3583(e)(1) and Federal Rules of Criminal Procedure 32.1(c)(2)(B) and (C), has filed a motion for early termination of supervised release. This brief supports that motion.

///

FACTS

On September 15, 2010, Mr. Russell was indicted in the District of Montana on five counts of Sexual Exploitation of Children, in violation of 18 USC §2251(a) (Count I); Coercion and Enticement, in violation of 18 USC §2422(b) (Count II); Transportation of a Minor with Intent to Engage in Criminal Sexual Activity, in violation 18 USC §2423(a) (Count III); Travel with Intent to Engage in Illicit Sexual Conduct with a Minor, in violation of 18 USC §2423(b) (Count IV); and Possession of Child Pornography, in violation of 18 USC §2252A(a)(5)(B) (Count V) (ECF No. 11). Mr. Russell was arraigned on September 22, 2010, after which he remained detained during the pendency of his case (ECF No. 12).

On November 29, 2010, Mr. Russell filed a motion to change his plea (ECF No. 34) and on December 16, 2010, plead guilty to Count IV of the Indictment, which charged the crime of Travel with Intent to Engage in Illicit Sexual Conduct with a Minor, in violation of 18 USC §2423(b) (ECF No. 37). On April 21, 2011, Mr. Russell was sentenced on Count IV to the Bureau of Prisons for a term of 37 months imprisonment, followed by 120 months of supervised release. Mr. Russell served the 37-month prison term of his sentence. His supervision began on September 8, 2013, and is scheduled to terminate on September 8, 2023. To-date, Mr. Russell has served just over 9 years of his 10-year supervised release term.

///

ARGUMENT

Section 3583(e)(1) of Title 18 of the United States Code authorizes this Court to terminate a term of supervised release. It provides:

The court may, after considering the factors set forth in section 3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), and (a)(7) terminate a term of supervised release and discharge the defendant released at any time after the expiration of one year of supervised release, pursuant to the provisions of the Federal Rules of Criminal Procedure relating to the modification of probation, if it is satisfied that such action is warranted by the conduct of the defendant released and the interest of justice.

This Court must consider certain 18 USC §3553(a) factors. *Id.* This Court looks at the “nature and circumstances of the offense and the history and characteristics of the defendant;” the need “to afford adequate deterrence to criminal conduct;” “to protect the public from further crimes of the defendant;” and “to provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner;” the advisory guideline range; any pertinent policy statement issued by the Sentencing Commission; sentencing disparities; and any outstanding restitution obligations. 18 USC §3553(a)(1), (a)(2)(B), (a)(2)(C), (a)(2)(D), (a)(4), (a)(5), (a)(6), (a)(7).

This Court imposed a prison sentence of 37 months imprisonment, followed by 10 years supervised release. On September 20, 2013, following his release, Mr. Russell was revoked for failing to abide by sex offender treatment program rules.

Mr. Russell was sentenced to the Bureau of Prisons for a term of 6 months imprisonment, followed by 114 months of supervised release. Then, in 2014, Mr. Russell received one low-level compliance violation, and in 2016, Mr. Russell received two additional low-level compliance violations. Each of the three violations were handled internally by Mr. Russell's probation officer rather than being reported. Since then, Mr. Russell has completed all treatment programs, including sex offender treatment in 2018, has met all of his financial obligations, has been actively employed at his job since November 14, 2014, and has remained a law-abiding citizen.

Ryan G. Weldon, Assistant United States Attorney, has been contacted regarding this motion. The United States take no position and defers to the Court's discretion. Mr. Russell's supervising probation officer, Kade Henderson, has also been contacted. He indicated that Mr. Russell has remained in complete compliance with his supervised release and that he would be able to inform the Court that Mr. Russell has made great changes in his life. Mr. Henderson does not oppose the remaining term of Mr. Russell's supervised release terminating early.

///

///

///

///

CONCLUSION

In light of the above-identified legal standards and the information brought to this Court's attention, Mr. Russell respectfully requests early termination of his supervised release. As mentioned above, he has successfully served over 9 years of his 10-year term of supervised release and remains a law-abiding citizen.

RESPECTFULLY SUBMITTED this 7th day of November, 2022.

/s/ Michael Donahoe
MICHAEL DONAHOE
Deputy Federal Defender
Federal Defenders of Montana

CERTIFICATE OF COMPLIANCE

I hereby certify that this brief in support of opposed motion for early termination of supervised release is in compliance. The brief's line spacing is double-spaced, and is proportionately spaced, with a 14-point font size and contains less than 6,500 words. (Total number of words: 760 excluding tables and certificates).

DATED this 7th day of November, 2022.

/s/ Michael Donahoe
MICHAEL DONAHOE
Deputy Federal Defender
Federal Defenders of Montana

CERTIFICATE OF SERVICE
L.R. 5.2(b)

I hereby certify that on November 7, 2022, a copy of the foregoing document was served on the following persons by the following means:

 1 CM-ECF

 2 Mail

1. CLERK, UNITED STATES DISTRICT COURT

1. RYAN G. WELDON
 Assistant U.S. Attorney
 U.S. Attorney's Office - Missoula
 101 East Front Street, Suite 401
 Missoula, MT 59802
 Counsel for the United States of America

2. SHAWN MATTHEW RUSSELL
 Defendant

/s/ Michael Donahoe
FEDERAL DEFENDERS OF MONTANA